

Specified modified requirements

Chapter 4

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requirements

4.1 Specified requirements for MiFID investment firms and for third country investment firms

4.1.1 **R** For a *firm* in relation to its *MiFID or equivalent third country business* the *rules* set out in column 1 of the table in **TC 4.1.4R** below are amended as set out in column 2.

4.1.2 **R** In this section, references to relevant individuals are natural persons who, on behalf of the *firm*:

- (1) make *personal recommendations to retail clients* in relation to *financial instruments*; or
- (2) provide information to *retail clients* about *financial instruments, investment services or ancillary services*; or

who are otherwise responsible for the supervision of a relevant individual who has not acquired the necessary knowledge and competence to act in a capacity prescribed in (1) or (2).

4.1.3 **R** References in **TC 4.1.4R** to a relevant individual's knowledge and competence are to the knowledge and competence necessary to ensure that the *firm*, on behalf of which the relevant individual acts, is able to meet its obligations under:

- (1) those *rules* which implemented articles 24 and 25 of *MiFID* (including those *rules* which implemented related provisions under the *MiFID Delegated Directive*); and
- (2) related provisions of the *MiFID Org Regulation*.

4.1.4 **R** Unless the context requires otherwise the *rules* in column 1 of the table are amended as set out in column 2:

Column 1 Relevant rule	Column 2 Amendments
TC 2.1.1R(1)	Insert the following at the end of TC 2.1.1R(1): "In addition, a <i>firm</i> must not assess a relevant individual as competent unless the <i>firm</i> has satisfied itself

	<p>that the relevant individual possesses the knowledge and competence to enable the <i>firm</i> to meet its obligations under SYSC 5.1.5ABR. This means that the relevant individual has also:</p> <p>(a) obtained appropriate experience which means that the relevant individual has successfully demonstrated the ability to carry on the activities through previous work experience. This work must have been performed, on a full-time equivalent basis, for a minimum period of 6 <i>months</i>; and</p> <p>(b) attained an appropriate qualification which means a qualification or other test or training course that meets the criteria set out by the ESMA guidelines referred to in TC 1.1.1BG.</p> <p>The level of knowledge and competence needed to fulfil the <i>firm's</i> obligations reflects the scope and degree of the activities, as described in TC 4.1.2R above, carried out by the relevant individual."</p>
TC 2.1.2R	<p>The provision is amended by adding after TC 2.1.2R:</p> <p>"A relevant individual, who has not acquired the necessary knowledge or competence to carry out the activities in TC 4.1.2R above, cannot provide those activities under supervision for a period exceeding 48 <i>months</i>."</p>
TC 2.1.5R(1)	<p>The provision is amended by adding after TC 2.1.5R:</p> <p>"Where a relevant individual has not acquired the necessary knowledge and competence to carry out the activities described in TC 4.1.2R above:</p> <p>(a) the <i>firm</i> must ensure that the individual supervising the relevant individual:</p> <p>(i) has been assessed as competent to provide such <i>personal recommendation</i> or information;</p> <p>(ii) has the necessary skills and resources to act as a competent supervisor; and</p> <p>(iii) takes responsibility for the <i>personal recommendation</i> or information, referred to in TC 4.1.2R above, provided by the relevant individual</p>

under supervision as if the supervisor is providing the *personal recommendation* including any *suitability report* (COBS 9) or information; and

(b) the *firm* must ensure that the supervision provided to a relevant individual is tailored to the services provided by the individual.”

4.1.5 **G** Rules in this section relate to the requirements in ■ SYSC 5.1.5ABR.

4.1.6 **G** For relevant individuals of an *incoming EEA firm*, with an establishment maintained by that *firm* (or its *appointed representative*) in the *United Kingdom*, the matters covered by ■ SYSC 5.1.5ABR are matters reserved for the *United Kingdom* as the *Host State regulator*.